

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

STEVEN A. HUFFMAN,

Defendant.

CASE NO. 8:06CR70

TENTATIVE FINDINGS

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 19). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶ 20, which includes a 2-level upward adjustment in the offense level pursuant to § 2F1.1(b)(2)(A) (more than minimal planning). The PSR included the upward adjustment because the “offense conduct involved repeated acts over a period of time.” In light of the Zone A sentence contemplated by ¶ 14 of the plea agreement, it appears that the parties did not contemplate an adjustment for more than minimal planning. Additionally, the Court notes that the Defendant pleaded to an Information charging him with conduct occurring between a brief period of time between February 1, 1999, to March 8, 1999. Therefore, the Court tentatively finds that the Defendant's objection is granted. The Defendant's adjusted offense level is 10, the total offense is 8, and the applicable sentencing guideline range is 0-6 months, Zone A.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 19) are granted;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 13th day of June, 2006.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge